

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 90-305-C - ORDER NO. 91-122 ✓
MARCH 4, 1991

IN THE MATTER OF:

Proceeding to Consider Allowing)	ORDER AUTHORIZING SERVICE,
Local and IntraLATA 0+ Collect)	GRANTING CERTIFICATE,
Authority for COCOT Providers)	APPROVING RATES, AND
Serving Confinement Facilities.)	REQUIRING BILLING

I.

INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (the Commission) initially by way of a tariff filing on February 26, 1990, by Southern Bell Telephone and Telegraph Company (Southern Bell) seeking approval of revisions to its access services tariff. The proposed revisions would have allowed Southern Bell to provide billing and collection services for interLATA calls to clearinghouse agents for calls placed on behalf of properly certified COCOT providers. The matter was duly noticed to the public, and Coin Telephones, Inc. (Coin Telephones), Pay-Tel Communications, Inc. (Pay-Tel) and Intellicall (hereinafter referred to collectively as the Applicants) filed a joint Petition to Intervene. The matter was then set for a hearing.

On April 25, 1990, Southern Bell filed a Request to Withdraw its Proposed Tariff Revisions. In response, the Applicants filed a Petition to Disallow the Withdrawal of Southern Bell's Tariff Revisions. By Order No. 90-505, dated May 9, 1990, the Commission allowed Southern Bell to withdraw its proposed tariff revisions. However, in that order, the Commission determined that the Applicants had raised certain issues which needed to be addressed by the Commission, specifically, whether Southern Bell should be required to provide billing and collection services for intraLATA collect calls placed through the COCOT telephones, whether COCOT providers must comply with all regulations applicable to interexchange carriers and alternate operator services (AOS) providers, and whether COCOT providers should be required by Southern Bell to obtain an "appropriate... Identification Code" for transmittal to Southern Bell, and other such related issues. The hearing was rescheduled and the Applicants then became the moving parties with the burden of going forward with the issues raised in their initial Petition to Intervene.

A hearing was held on June 6, 1990, and on July 10, 1990, the Commission issued its Order No. 90-663. In that Order the Commission determined that COCOT providers did not currently have the authority to provide "0+" collect, local and intraLATA calling. The Commission determined that a new proceeding should be initiated to consider whether such authority should be available to COCOT providers serving confinement facilities. The Commission ruled that if such authority should be extended, the

proceeding would also serve as the certification proceeding for Pay-Tel and Coin Telephones. The Commission held in abeyance ruling on a Southern Bell motion to require Pay-Tel and Coin Telephones to cease and desist from providing telecommunications services in South Carolina where they are presently operating, finding that it was not in the public interest to disrupt service to the confinement facilities currently being served. The Commission also held in abeyance ruling on Southern Bell's Motion for an accounting of any revenues derived from providing services and for a refund.

On July 19, 1990, Telink Telephone Systems, Inc. (Telink) filed a Petition to Intervene Out of Time, and this Petition was granted in Order No. 90-755. On October 8, 1990, the Consumer Advocate for the State of South Carolina (the Consumer Advocate) filed his Petition to Intervene, and this Petition was granted, also.

On September 17, 1990, the Commission issued its Order No. 90-871. That Order continued the hearing in this matter, and ruled that a Notice of Proceeding be published by the Applicants setting forth the following issues to be decided in the current proceeding:

1. Whether COCOTs providing service to confinement facilities should be authorized to provide "0+" interLATA, intraLATA and local automated collect calls utilizing store and forward technology;

2. Whether Pay-Tel and Coin Telephones should be granted certificates of public convenience and necessity to provide 0+ interLATA, intraLATA and local automated collect calls from confinement facilities utilizing store and forward technology;

3. The appropriate charges for COCOTS providing 0+ interLATA, intraLATA and local automated collect calls from confinement facilities; and

4. Whether Local Exchange Companies should be required to provide billing and collection services to properly certified COCOTS providing 0+ interLATA, intraLATA and local automated collect calls to confinement institutions at rates for which billing and collection is provided to interexchange carriers.

Pursuant to the Commission's ruling, a Notice of Rescheduling of Hearing was issued on October 10, 1990 and duly published. The hearing in this matter was commenced at 10:30 a.m. on December 12, 1990, in the Commission's hearing room, the Honorable Henry G. Yonce, presiding. John F. Beach, Esquire, James J. Freeman, Esquire, and Judith St. Ledger-Roty, Esquire, represented the Applicants; William F. Austin, Esquire, Fred A. Walters, Esquire, and Harry M. Lightsey, III, Esquire, represented Southern Bell; Frank R. Ellerbe, III, Esquire, represented Telink Telephone Systems, Inc.; Carl F. McIntosh, Esquire and Elliott F. Elam, Jr., Esquire, represented the Consumer Advocate; and Marsha A. Ward, General Counsel, represented the Commission Staff.

Four public witnesses, MAJ James L. Fowler, Jail Administrator for the Greenwood County Detention Center, Sheriff Michael R. Carter, Sheriff of Georgetown County, Mr. James Mann, Detention Manager for the York County Detention Center, and CPT Adrian Bost, Jail Administrator for the Lexington County Detention Center, testified concerning COCOT telephones provided by the Applicants, the Intervenor Telink, or similar providers used in their confinement facilities. The Applicants presented the testimony of

B. Reid Presson, Jr., Vice-President of Pay-Tel and John Vincent Townsend, President of Pay-Tel. Telink presented the testimony of Mr. Myron M. Newman, Vice-President of Operations and a principal shareholder in Telink Telephone Systems, Inc. Southern Bell presented the testimony of Mr. David B. Denton, Operations Manager - Rates. Following the hearing, the Commission provided all parties an opportunity to file a written brief in this case.

II.

FINDINGS AND CONCLUSIONS

Based on the evidence of the record, the Commission makes the following findings of fact and conclusions of law:

- A. Whether COCOTS providing service to confinement facilities should be authorized to provide "0+" interLATA, intraLATA and local automated collect calls using store and forward technology.

FINDINGS

1. Commission Order No. 90-663 determined that another proceeding was necessary "to determine whether or not COCOTS providing service to confinement facilities should be authorized to provide '0+' intraLATA and local collect operator assisted calls." Order, p. 9.
2. The Applicants are corporations authorized to do business in this State.
3. The Applicants are providing customer owned telephones equipped with a special store-and-forward technology which provide collect-only automated operator services.
4. The Applicants have limited their request to provide the

proposed store-and-forward technology to confinement facilities only in South Carolina.

5. The Applicants propose to charge certain rates for providing this "0+" collect-only automated operator service call.

6. As defined by S.C. Code Ann., §58-9-10(6) (1976), the Applicants are "telephone utilities" and therefore are subject to the Commission's regulation pursuant to §58-3-140 and §§58-9-10 et seq.

7. On an interLATA basis, the type service offered by the COCOTS, i.e., "reselling" interLATA long distance service through an underlying carrier, has been provided by non-facility based interexchange carriers (IXC's). The interLATA authority requested by the Applicants is not in dispute.

8. The type of service requested to be provided has, on a local and intraLATA basis, been traditionally reserved to the local exchange companies (LECs.)¹

9. The Applicants herein are providing collect only automated operator services using store and forward technology. The LEC is actually carrying the call on a local or intraLATA basis, however, the store and forward technology software contained within the telephone provides the operator assisted portion of the call.

1. The only exception to this is SouthernNet's authority which was granted on a statewide basis in 1982 before the LATA lines were drawn in 1984. See, Order No. 82-3, issued January 5, 1988, in Docket No. 81-28-C.

CONCLUSIONS

1. Therefore, the confinement facility COCOT is actually "reselling" local and intraLATA collect only service while it provides operator services on the same local and intraLATA basis.

2. The Commission has required both interexchange carriers (IXCs) and AOS providers to receive certification from the Commission before providing such services. See, S.C. Code Ann., §58-9-280 (1976). The Applicants have already received COCOT certificates for any pay phone services provided.

3. Therefore, before telephone utilities, such as the Applicants herein, commence such operations from confinement facilities, a certificate of public convenience and necessity is required.

B. Whether Pay-Tel and Coin Telephone should be granted certificates of public convenience and necessity to provide "0+" interLATA, intraLATA and local automated collect calls from confinement facilities utilizing store and forward technology.

FINDINGS

1. Order No. 90-663 provided that "if it is determined in this future proceeding that such COCOT providers should be allowed to provide '0+' intraLATA and local automated operator assisted calls, the proceeding will also serve as the certification proceeding for such COCOTS." Order, p. 10.

2. To be granted a certificate of public convenience and necessity, the Applicants must demonstrate a "public need" for their service and that they are fit, willing and able to provide the service.

3. The services under consideration are proposed to be provided to a very limited market - to provide confinement facility inmates with access to telephones to make personal telephone calls.

4. The proposed service is provided through advanced store and forward technology which permits the inmates to make collect-only calls.

5. The testimony of Sheriff Carter, Major Fowler, Mr. Mann, and Captain Bost demonstrate the serious problems involved in providing inmates access to telephone service.

6. Before subscribing to the available store and forward services, inmates in confinement facilities supervised by the above-named witnesses were severely restricted in their access of the confinement facility telephones (generally one call, once a week), and it required the commitment of confinement personnel to supervise the inmates' access to the confinement facility phones.

7. After the installation of the automated collect system, each facility is now able to provide a satisfactory volume of calling for its inmates. The confinement facilities also experience the following benefits:

a. The availability of automated collect COCOT phones has cut down on the administrative costs formerly associated with providing the minimum calling for inmates.

b. The inmate populations have experienced a significant improvement in morale.

c. The average length of stay per inmate has been reduced due to more timely access to lawyers and bail bondsmen.

d. Confinement facility administrators are able to more effectively control the inmate population by limiting telephone access in order to discipline inappropriate behavior and reward appropriate behavior.

8. The installation of automated collect phones has eliminated the security risk formerly associated with removing the prisoner from cell blocks and providing telephone calls from a less secure location.

9. Harassment calls from inmates to jurors, witnesses, and county personnel have been virtually eliminated by utilizing the selective number blocking feature available through store and forward technology.

10. Because the telephones are automated, collect-only phones, fraudulent calling is much more difficult for the inmates. The critical factor in the operation of these phones which makes them less susceptible to fraud is that the inmate has no access to an outside line until the call is connected to and accepted by a party at the number which he has dialed. This prevents the inmate from having access to a live operator and prevents him from receiving a secondary dial tone.

11. The record demonstrates that unless these companies are permitted to provide this service, including intraLATA and local services, similar services will not be available at this time in

South Carolina.

12. The record shows that the only LEC in South Carolina which offers a service which is somewhat comparable is Southern Bell.

13. The two major points concerning Southern Bell's service is that: first, Southern Bell does not operate in every county in the State, and second, Southern Bell's Automated Alternate Billing Services (AABS) operates differently than the store and forward technology proposed by the Applicants, specifically:

a. Almost half of the counties within South Carolina are served by local exchange companies (LECs) other than Southern Bell.

b. None of the other LECs offer an automated collect product.²

c. The COCOT phones afford selective number blocking. Southern Bell's AABS does not.

d. The COCOT phones bar inmate access to a live operator, reducing the number of fraudulent calls. Southern Bell's AABS does not.

e. The COCOT phones identify the calling party and that the call is coming from a confinement facility, giving the called party the opportunity to know the

2. The Lexington County Detention Center, which is served by the LEC Alltel, receives automated collect service from Impact Technologies but uses the line operator services for local and intraLATA through a contractual arrangement between Alltel and Southern Bell.

identity and location of the caller before accepting the call. The AABS system only informs the called party that the call is collect and from what community or town the call is from.

f. The COCOT phones offer automated collect calling on a local, intraLATA, interLATA, and interstate basis. Southern Bell's AABS may only provide intraLATA and local calling. InterLATA and interstate calls in Southern Bell territory would be carried by an interexchange carrier's live operator.

g. The COCOT phones allow confinement facilities to selectively switch individual phones on and off and to limit the length of individual calls. Southern Bell does not offer this option.

14. A basis for denial of the Applicants' request, as proposed by Southern Bell, is that the flow of intraLATA revenues for support of local exchange service should be maintained. The solution proposed by Southern Bell is not a feasible option if the system is to be useful to the confinement facilities.

a. Southern Bell asserts that the solution is for the COCOT to hand off all local and intraLATA collect calls to the LEC, utilizing its automated technology for only interLATA collect calls placed by inmates from confinement facilities.

b. The record reveals that the majority of all collect calls placed from confinement facilities in

South Carolina are local and intraLATA in nature.

c. If local and intraLATA collect calls were handed off to the local exchange company, the service would not be viable for the COCOT. In essence, under such a scenario, the COCOT provider would bear the cost of installing and maintaining the telephone equipment and pay for the COCOT line, but would have to deliver all of the call local and intraLATA volume to the local exchange company which would keep all the revenue from such calls.

d. The confinement facilities would not find such a hand-off system as meeting their needs. For the over 20 non-Southern Bell served counties in South Carolina, no automated collect only product is available to handle local and intraLATA calls. In those cases, the call would be handed off to a live operator. This situation could create the previously discussed problems of the confinement facility having to commit manpower for inmate telephone access and attempting to combat fraud.

15. If the service is approved as proposed, the LEC will receive sufficient revenues from the COCOTs provision of the service to maintain the intraLATA revenue stream.

a. The LEC will receive a COCOT line charge which is a fixed, non-traffic sensitive monthly charge.

b. The LEC will receive "1+" Message Toll Service

(MTS) revenues on all intraLATA toll calls.

c. The LEC will receive its appropriate message charge on all local calls.

d. The LEC will receive revenues from message billing.

16. The LEC may experience some cost savings if this service is approved.

a. The cost of providing a live operator may be reduced.

b. The cost of providing and maintaining hardware, which would be supplied instead by COCOTs, will be reduced.

c. The cost of a called party's failure to pay for calls is shifted from the LEC to the COCOT provider.

d. The cost of commissions will be reduced, if any were paid, to the confinement institution location owners.

17. Increased inmate access to COCOT automated collect telephones has resulted in greater calling volumes from confinement facilities which benefits the local exchange company.

a. Before the installation of the automated collect telephones, each of the confinement facilities represented at the hearing were only able to supply approximately one five minute telephone call per inmate per week.

b. In one instance, the confinement facility

experienced an increase from 295 calls per month to over 2,000 calls per month. In another confinement facility with automated collect COCOT's, calls increased from 455 calls per month to approximately 2,680 calls per month.

c. This increase in calling volume represents additional message, toll and billing revenues to the local exchange company that were not being received prior to the installation of the automated collect COCOT phones.

d. The testimony of Pay-Tel's witness Townsend supports the fact that 50%-60% of his Company's revenues are paid to the local exchange company for handling the call, as well as the billing of a call.

e. The Applicants presented evidence showing that prior to the installation of automated collect COCOT telephones, Southern Bell received an average of \$180.60 per month from the Kershaw County Detention Center for phone service. (See, Hearing Exhibit No. 4. See, also Section E, infra, wherein the Commission sets out its ruling on the objections to the introduction of various hearing exhibits). After the automated collect telephones were installed, Southern Bell received nearly \$900.00 from four inmate COCOT phones for a one

month period.³

18. Southern Bell contends that since traditional AOS providers have not been authorized to provide local and intraLATA calls, the Applicants herein should be prevented from doing so as well.

19. The Applicants herein have asked for an exception to this Commission policy as to the provision of such service on a collect basis from confinement facilities only.

CONCLUSIONS

1. The Applicants have demonstrated a need for this particular service from the confinement facility administrators, have shown that the same service is not offered by any other entity or LEC, and provided evidence that the LECs will actually benefit from this service, vis a vis, greater calling volumes.

2. Through the filing of certain financial exhibits and tariffs, the Applicants have shown themselves to be fit, willing and able to provide the requested service.

3. Based on the foregoing findings, the Commission has determined that a certificate of public convenience and necessity should be granted to the Applicants for the provision of "0+" interLATA, intraLATA and local automated collect calls from confinement facilities only.

3. Even though Southern Bell contends its AABS could have been installed in the Kershaw facility, and it could have received those same revenues, it would not have received billing revenues. Additionally, where Southern Bell is not present, the local exchange company in that area will receive greater revenues.

- C. The appropriate charges for COCOTS providing 0+ interLATA, intraLATA and local automated collect calls from confinement facilities.

FINDINGS

1. When the Commission, in Order No. 85-1, issued January 8, 1985, in Docket No. 83-308-C, increased the pay telephone rate for Southern Bell from 10¢ to 25¢ per local call, it carved out certain exceptions where some pay stations would be required to maintain the 10¢ charge. One such exception is a confinement facility. See, Southern Bell General Subscriber Service Tariff A7.1.4(C)(1).

2. The basis for the Commission's maintenance of the 10¢ charge in certain circumstances is to allow those individuals with lower incomes access to the telephone network. Individuals housed in confinement facilities were previously found to have lower incomes, hence, telephones in confinement facilities may only charge 10¢ per local calls.

3. While the service being offered is collect and the called party will be paying for the call instead of the inmate, the testimony reveals that the majority of the calls are local and that the inmates are calling family members and friends. The Commission is not convinced that a local called party should pay more for the local position of a call from a confinement facility than the inmate would have to pay for the same local call from a confinement facility. Southern Bell's tariff provides that a local collect call from a confinement facility should be 10¢ plus the 70¢ operator service charge. The called party should not be disadvantaged or treated differently because the calling party is

calling collect from a confinement facility.

CONCLUSIONS

1. Local collect calls should be charged at the the LEC rate for a coin call from a confinement facility, plus the operator assistance charge for a local call. Presently such a call would be rated at 80¢.

2. There was no dispute that the intraLATA collect calls would be billed at the LEC's "0+" rate and that the LEC would receive compensation at its "1+" Message Toll Service (MTS) rate for the duration of the connection made with the called party whether the call was accepted or not.

3. As to interLATA collect calls, again, no dispute existed to the filed rate, and such is found appropriate by the Commission, subject to the provisions of Section F, infra.

D. Whether local exchange companies should be required to provide billing and collection services to properly certified COCOTS providing 0+ interLATA, intraLATA and local automated collect calls to confinement institutions at rates for which billing and collection is provided to interexchange carriers.

FINDINGS

1. Once establishing that these COCOTS are reselling interLATA, intraLATA and local operator assisted service, then it is axiomatic that these COCOTS are interexchange carriers for interLATA and intraLATA purposes.

2. As to the provision of local operator assisted service, the Applicants, by definition, can not be interexchange carriers. As to the provision of local operator assisted service, the

Applicants, because of the service provided to the confinement facilities, have merely been granted an exception to the Commission's policy of reserving the provision of local service, particularly operator services, to the LEC.

3. Pursuant to Southern Bell's tariff, it must provide billing and collection services to those interexchange carriers requesting such. See, Southern Bell Access Service Tariff, Section E2.6. And, as to the billing and collection for local "0+" collect calls, based upon the certificate granted herein, the LECs must bill and collect for local "0+" collect calls of properly certified confinement facility "0+" providers.

CONCLUSION

1. Therefore, the local exchange companies should bill and collect for certified carriers providing "0+" interLATA, intraLATA and local collect calls from confinement facilities at the applicable rate for interexchange carriers.

E. MISCELLANEOUS MATTERS FINDINGS AND CONCLUSIONS

1. Motion to Dismiss

At the commencement of the hearing, Southern Bell renewed its Motion to Dismiss based upon the allegation that the Applicants did not make certain filings, including a schedule of tariffs and other financial data before the prefiling deadline. Southern Bell contends this violated its right to due process.

The Commission notes that this case arose from unique procedural maneuverings. Southern Bell was the initial Applicant

and Pay-Tel, Coin Telephone and Intellicall were Intervenor. When Southern Bell withdrew its tariff, Pay-Tel, Coin Telephone and Intellicall assumed the role of the Applicant.

Upon Southern Bell's raising the filing requirement issue, the Applicants filed the necessary information. Such information was filed far enough in advance of the hearing that Southern Bell could have conducted the necessary discovery before the hearing. It did not attempt any discovery based on the financial data filed by the Applicants. The Commission finds no due process has been denied Southern Bell and therefore, denies the Motion to Dismiss.

2. Application of Telink

Southern Bell objected to the Commission's consideration of Telink's Application in this proceeding. The Commission previously held a hearing regarding Telink's request for authority to provide "0+" interLATA, intraLATA and local collect only calls from confinement facilities. See, Docket No. 89-550-C. Order No. 90-908, issued October 1, 1990 in Docket No. 90-550-C held in abeyance Telink's request to provide "0+" collect local and intraLATA service from confinement facilities. Order No. 90-908, p. 5. Therefore, the Commission will not rule on Telink's request in this Docket, rather, the Commission will revisit Docket No. 90-550-C and make its determinations based upon the record presented in that proceeding.

3. Motion to Strike

At the time the Applicants presented witnesses Mann, Presson, and Townsend, Southern Bell renewed its earlier filed Motion to

Strike certain portions of their testimony. The Commission denied the Motion to Strike by Order No. 90-1171, issued December 12, 1990 in the instant Docket. The Commission noted Southern Bell's renewal of its Motion but denied the Motion each time it was raised. The Commission stands by its reasoning enunciated in Order No. 90-1171.

4. Hearing Exhibits introduced by Applicants

Applicants sought to introduce excerpts of the transcript of testimony of confinement facility witnesses before the Commission in the hearing of June 6, 1990. Specifically, Applicants sought the introduction of the testimony of witnesses Blackmon and Mickels as Hearing Exhibit Nos. 2 and 3, respectively.

R.103-871(B) allows that the transcript or any portion thereof of another formal proceeding before the Commission may be introduced into the formal record at a subsequent hearing as long as a true copy of the portion desired is presented. However, R.103-873 allows the presiding officer to exclude "inadmissible, incompetent, cumulative, or irrelevant evidence." As to the testimony of witnesses Mickels and Blackmon from the previous proceeding, their testimony is very similar to that of the detention facility witnesses offered in the instant proceeding, however, the issue in the previous hearing concerned whether Commission authority was even necessary. This proceeding is to determine whether a certificate should be granted. The Commission finds that the introduction of the testimony of witnesses Blackmon and Mickels in this proceeding is not relevant and is merely

cumulative. Southern Bell's objection should be sustained.

Next, the Applicant sought the introduction of Hearing Exhibits 4 and 5. Hearing Exhibit No. 4 is a letter from counsel for Southern Bell to counsel for the Applicants, indicating on a daily basis the revenues generated from the local only coin station at the Kershaw County detention facility and the revenues collected from the coinless collect only set. Hearing Exhibit No. 5 was a bill owed Southern Bell by the Applicants for service to the Kershaw County detention facility after the Applicants' phones were installed. Southern Bell objects to both hearing exhibits on the basis that they are not relevant.

Southern Bell asserts that the exhibits do not show that Southern Bell is benefiting from the COCOT phones in the Kershaw County detention facilities. The Commission is of the opinion that the Exhibits should be entered into evidence. Hearing Exhibit No. 4 shows the revenues being collected from the two phones in the Kershaw County Detention Center, while Hearing Exhibit No. 5 shows the revenues being paid to Southern Bell from the COCOT facility phones in the Kershaw Detention Center. The Commission is of the opinion that it does show that Southern Bell does receive some benefit from the COCOT phones in confinement facilities. Therefore, Southern Bell's objection to the admission of the Hearing Exhibit Nos. 4 and 5 is overruled.

Hearing Exhibit No. 6 purports to be a telephone bill from the Willoughby Law Firm in which a call was placed from the Lexington County Detention Center as a automated collect call over the

system that is currently being used for local calls. The bill indicates that the charge for that local call is 95¢. While this proceeding will consider the appropriate charge for local confinement facility calls, what a particular telephone company charges is not relevant to this proceeding, and Southern Bell's objection is sustained.

Hearing Exhibit No. 7 purports to be interrogatories propounded by the Applicants and the responses of Southern Bell, specifically 3-3, 3-5, and 3-13. The exhibits are interrogatory responses that explain Southern Bell's automated technology, or its AABS service. Southern Bell objects on the grounds of relevancy. Southern Bell asserts that Southern Bell's AABS service should not be considered by the Commission since this is a proceeding to consider the Applicant's request for a certificate of public convenience and necessity. The Commission is of the opinion that Hearing Exhibit No. 7 should be admitted into evidence. This information is helpful to the Commission to determine whether similar service is presently available to or by any other LEC. This information tends to go toward the issue of "public need" to determine whether a certificate of public convenience and necessity should be issued.

Hearing Exhibit No. 8 is the Applicants' Interrogatories and Southern Bell's responses thereto concerning Interrogatory Nos. 3-7, 3-15, 3-16, 3-17 and 3-39. The Interrogatories concern the appropriate charge for local collect telephone calls by a Southern Bell customer. Southern Bell objected on the grounds of relevancy.

The Commission agrees with Southern Bell that the appropriate charge for the collect only local call will be determined by the Commission in this proceeding and will not be based on what another telephone utility may or may not charge for the call.

Applicants' Interrogatories and Southern Bell's responses thereto of Interrogatory Nos. 3-33, 3-34, and 3-35 were submitted as Hearing Exhibit No. 9. These Interrogatories described screening functions that Southern Bell currently offers in its automated collect product. Southern Bell objected on the grounds of relevancy in that the Applicants were attempting to create new evidence after the time of prefiling. The Commission is of the opinion that this evidence is pertinent to the granting of the certificate of public convenience and necessity. The screening provided by Southern Bell, compared to the screening provided by the Applicants is important to note. Further, Southern Bell's objection that the Applicants were creating evidence after the time of the prefiling is not well-founded. While the Applicants may not have conducted comparisons, Southern Bell may not prevent the Applicants from putting in evidence what Southern Bell's system can do. The record will reflect the capabilities of Southern Bell's AABS service and that of the Applicants'.

Hearing Exhibit No. 10 is Southern Bell's response to the Applicants Interrogatory No. 3-41. This Interrogatory provides information regarding Southern Bell's toll shortage report. The Commission is of the opinion that this document is not relevant to the proceedings at hand and sustains Southern Bell's objection

thereto.

The Applicants sought to introduce Interrogatory No. 3-42 and Southern Bell's response to that Interrogatory. The information breaks down the percentage of local intraLATA and interLATA calling experience from confinement facilities served by Southern Bell in South Carolina. Southern Bell objected to the introduction of such evidence on the grounds of relevancy and objected to the characterization given this information by the Applicants. The Commission agrees with Southern Bell that the information speaks for itself. The Commission will admit into evidence as Hearing Exhibit No. 11 this information which shows that the break down of calls from coinless, coin and collect only phones in Southern Bell served confinement facilities as depicted in the exhibit.

The Applicants next sought the introduction of certain exhibits that were prefiled as part of witness Townsend's prefiled testimony. Specifically, the Applicants sought to introduce the North Carolina Utility Commission's order which allowed automated collect calling. The Commission determined that it would take judicial notice of the North Carolina Utility Commission's order. Additionally, the Commission takes judicial notice of the North Carolina Utility Commission's order promulgating COCOT rule recodification.

Finally, the Applicants presented a document provided to the North Carolina Utilities Commission from Southern Bell which reports on inmate fraud. Southern Bell objected on the grounds of relevancy, hearsay and lack of competency. The Commission agrees

with Southern Bell's objections. No one from Southern Bell sponsored this information, nor has it been shown that the information produced for a North Carolina proceeding relates to one in South Carolina. It is improper to submit this report with nothing else to support it in this proceeding in South Carolina. Southern Bell's objection to the introduction of this Hearing Exhibit No. 13 is sustained.

During cross-examination of witness Presson by counsel for Southern Bell, the question was asked as to whether any studies on calling patterns in South Carolina from confinement facilities have been made to determine whether the calls are local, intraLATA or interLATA in nature. The prefiled testimony of witness Presson stated that the Applicants' study of three dealers serving confinement institutions in other states indicates that 76% to 81% of the calls are local or intraLATA. Counsel for the Applicants at that time explained that the witness was referring to an interrogatory propounded by Southern Bell while counsel for Southern Bell was referring to prefiled testimony. Counsel for the Applicants stated that after the prefiled testimony was submitted, Southern Bell asked an interrogatory about South Carolina and Mr. Presson responded to that interrogatory. At that time, counsel for the Applicants sought to introduce as Hearing Exhibit No. 14, Interrogatory of Southern Bell No. 36, and the Applicants' answer. Southern Bell objected that it was improper for this document to be introduced while Southern Bell was cross-examining the witness and that the prefiled testimony of the Applicants may not be

supplemented at this point in time. The Commission agrees that it was inappropriate to seek introduction of this document during cross-examination by Southern Bell. However, at the conclusion of his redirect examination, counsel for the Applicants sought to introduce the interrogatory and response. The Commission finds that the issue was brought up on cross-examination as to whether a study had been done from three institutions in South Carolina. It was proper for counsel for the Applicant to introduce this information on redirect testimony after this issue was raised on cross-examination. This information should come as no surprise to Southern Bell since the response was produced as an answer to an interrogatory it had propounded.

At the close of the hearing, counsel for Southern Bell made a motion for directed verdict to dismiss the Application because the Applicants had failed to submit as evidence certain financial data and tariffs which, according to counsel, must be included so that the Commission may rule properly on the Applications. However, according to the Commission's rules, the financial information referred to by Southern Bell must be included as part of the Application, not as evidence in the hearing. The Application is part of the record before the Commission, therefore, the required information which was filed by the Applicants is a part of the record in this matter. Southern Bell's Motion for Directed Verdict is denied. Additionally, the Commission had ruled on the propriety of the filing of this information by the Applicants in Order No. 90-1154, issued December 5, 1990. The Commission sees no reason

to change this ruling.

Additionally, Southern Bell made a motion that the Commission impose monetary penalties provided by Title 58, Chapter 9, Section 1610, with each day constituting the separate offense, and that the Commission issue an interrogatory to Telink, having them state the number of days and the number of separate offenses that have occurred with their providing intraLATA and local calling in direct violation of the order of this Commission. The Commission has considered the motion against Telink requested by Southern Bell and finds that it is inappropriate in this proceeding, which involves the request for certification by Pay-Tel and Coin Telephones, for the Commission to issue the requested order against Telink, who is merely an intervenor in this proceeding. Telink previously requested certification from the Commission and Southern Bell participated in that docket. Southern Bell made several motions in that proceeding concerning the authority of Telink. The Commission will address those motions when it issues its order regarding Telink's authority. It is inappropriate for the Commission to take such action in this proceeding when Telink is not the Applicant herein. Southern Bell's Motion is denied.

In Order No. 90-663, the Commission held in abeyance ruling on Southern Bell's motion to require Pay-Tel and Coin Telephones to cease and desist from providing telecommunication services in South Carolina where they are presently operating. The Commission has determined, in light of its findings and the grant of authority herein, that Southern Bell's motion to require Pay-Tel and Coin

Telephones to cease and desist should be denied. Additionally, the Commission held in abeyance ruling on Southern Bell's motion for an accounting of any revenues derived from providing services and for a refund. Again, in light of the Commission's determination that the Applicants should be granted a Certificate of Public Convenience and Necessity, Southern Bell's motion should be denied.

F. CONDITIONS OF CERTIFICATION
FINDINGS AND CONCLUSIONS

1. The Applicants certified herein shall comply with all Commission guidelines pertaining to the provision of COCOT service as set forth in Docket No. 85-150 and any other relevant proceedings. Any departure from the requirements of the guidelines will not be allowed without a specific request for a waiver.

2. Waiver of the guidelines is not to be considered a grant of authority to provide "0+" collect store and forward calling from confinement facilities. Rather, it is merely the authorization to program the facilities so that they may carry such calls once proper certification is given by the Commission for "0+" collect calling from confinement facilities only.

3. Any confinement facility COCOT provider wishing to provide interLATA, intraLATA or local "0+" collect calling using store and forward technology should file an application with the Commission requesting certification to provide any or all of above-mentioned services.

4. That the rates charged for such "0+" collect calls from confinement facilities on a local or intraLATA basis shall be no

more than the rates charged by the LEC for local or intraLATA operator assisted calls at the time such call is completed.

5. That the rates charged for "0+" collect calls from confinement facilities on an interLATA basis shall be no more than the rates charged for interLATA operator assisted calls by AT&T Communications at the time such call is completed.

6. A rate structure incorporating a maximum rate level with the flexibility for downward adjustment has been previously adopted by this Commission. IN RE: Application of GTE Sprint Communications Corporations, etc., Order 84-622, issued in Docket 84-10-C on August 2, 1984. The Commission herein finds that the appropriate rate structure for the Applicants should include a maximum rate level for each tariff charge, with the restrictions of paragraphs 4 and 5 above duly incorporated.

7. That while the Commission is conscious of the need for the Applicants to adjust rates and charges timely to reflect the forces of economic competition, rate and tariff adjustments below the maximum levels should not be accomplished without notice to the Commission and to the public. The Company shall incorporate provisions for filing rate changes and publication of notice of such changes two weeks prior to the effective date of such changes, and affidavits of publication must be filed with the Commission. Any proposed increase in the maximum rate level reflected in the tariffs of the Company, which should be applicable to the general body of subscribers would constitute a general ratemaking proceeding which would be treated in accordance with the notice and

hearing provisions of the S.C. Code Ann. Section 58-9-540 (Cum. Supp. 1990).

8. The Applicants are required to brand all calls so that they are identified as the carrier of such calls to the called party.

9. A "0+" collect call should only be completed upon affirmative acceptance of the charges from the called party.

10. Call detail information submitted by the Applicants to the LEC's for billing must include the COCOT access line number assigned to the line by the local exchange company.

11. The bill provided to the called party should provide the name of the Company and a toll-free number for contacting the Company concerning any billing or service questions.

12. The Applicants may only use such underlying carriers for the provision of intrastate interLATA telecommunications service as are certified by this Commission to provide such service and the Applicants will notify the Commission in writing as to their underlying carrier or carriers and of any change in their carrier.

13. The Applicants are subject to any applicable access charges pursuant to Commission Order No. 86-584.

14. The Applicants are required to file on a yearly basis surveillance reports with the Commission as required by Order No. 88-178 in Docket 87-483-C. The proper form for these reports should be Attachment A, attached hereto and incorporated by reference herein.

15. The Applicants should file tariffs in accordance with the

findings and conclusions herein within 30 days of the date of this Order; such tariffs will be deemed the Applicants' maximum rates and the Applicants must file a price list of current charges.

IT IS THEREFORE ORDERED:

1. That the type of service offered by the Applicants from confinement facilities requires a certificate of public convenience and necessity.

2. That the Applicants have demonstrated a particular public need and that they are fit, willing and able to provide the requested service from confinement facilities; therefore, the Applicants are hereby granted a certificate of public convenience and necessity for the provision of "0+" interLATA, intraLATA and local automated collect calls from confinement facilities only.

3. That the rates so charged for said service are subject to the restrictions enunciated herein.

4. That local exchange companies are required to provide billing and collection services to properly certificated confinement facility "0+" providers at the applicable rate for interexchange carriers.

5. That Southern Bell's Motion to Dismiss is denied.

6. That the Commission will consider the merits of Telink's request when it revisits Docket No. 90-550-C and will make its determinations based on the evidence submitted therein.

7. That Southern Bell's Motion to Strike is denied.

8. That the hearing exhibits introduced by the Applicants will be admitted into evidence as set forth herein. The Commission

admits into evidence Hearing Exhibit Nos. 4, 5, 7, 9, 11, and 14.
The Commission takes judicial notice of the North Carolina
Utilities Commission orders submitted as Hearing Exhibit No. 12.


9. That Southern Bell's Motion for Directed Verdict is
hereby denied.

10. That Southern Bell's Motion requesting monetary penalties
against Telink and the issuance of an interrogatory is denied.

11. That Southern Bell's Motion to require the Applicants to
cease and desist from providing telecommunications service in South
Carolina is hereby denied, as is its Motion for an accounting.

12. That this Order shall remain in full force and effect
until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S

(1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.

(3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12
MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

*THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION
WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX,
CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER DEPOSITS.

(4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR
ENDING _____.

*THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT
PORTION PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

(5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT
AND EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR
ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

(6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS
WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE
INVESTMENT (SEE #3 ABOVE).